

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 LAUSTEVEION JOHNSON,

4 Plaintiff

Case No. 3:19-cv-00772-RCJ-CLB

ORDER

5 v.

6 NEVADA OFFENDER MANAGEMENT
7 DIVISION, *et al.*,

8 Defendants

9
10 This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983
11 by a state prisoner. On January 7, 2020, this Court issued an order denying the Plaintiff's
12 application to proceed *in forma pauperis*, without prejudice, because the application was
13 incomplete. (ECF No. 3 at 2). The Court ordered Plaintiff to file a current financial
14 certificate and an inmate account statement for the past six months or pay the full filing
15 fee of \$400 within forty-five days from the date of that order. (*Id.* at 2). The forty-five-day
16 period has now expired, and Plaintiff has not filed a current financial certificate and an
17 inmate account statement for the past six months, paid the full filing fee, or otherwise
18 responded to the Court's order.

19 District courts have the inherent power to control their dockets and "[i]n the
20 exercise of that power, they may impose sanctions including, where appropriate . . .
21 dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
22 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure
23 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
24 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for
25 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.
26 1992) (affirming dismissal for failure to comply with an order requiring amendment of
27 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal
28 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of
address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming

1 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
2 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with
3 local rules).

4 In determining whether to dismiss an action for lack of prosecution, failure to obey
5 a court order, or failure to comply with local rules, the court must consider several factors:
6 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
7 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
8 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
9 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
10 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

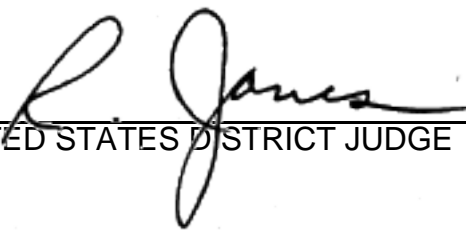
11 Here, the Court finds that the first two factors, the public's interest in expeditiously
12 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
13 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
14 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
15 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
16 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
17 disposition of cases on their merits—is greatly outweighed by the factors in favor of
18 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
19 the court's order will result in dismissal satisfies the "consideration of alternatives"
20 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
21 F.2d at 1424. The Court's order requiring Plaintiff to file a properly executed financial
22 certificate on the correct form and an inmate account statement for the past six month or
23 pay the full filing fee within thirty days expressly stated: "IT IS FURTHER ORDERED that,
24 if Plaintiff fails to timely file a current financial certificate and an inmate account statement
25 for the past six months, the Court will dismiss the case, without prejudice, for Plaintiff to
26 file a new case when he is able to acquire the necessary documents to file a complete
27 application to proceed *in forma pauperis*." (ECF No. 3 at 2). Thus, Plaintiff had adequate
28 warning that dismissal would result from his noncompliance with the Court's order to file

1 a current financial certificate and an inmate account statement for the past six months or
2 pay the full filing fee within forty-five days.

3 It is therefore ordered that this action is dismissed without prejudice based on
4 Plaintiff's failure to file a current financial certificate and an inmate account statement for
5 the past six months or pay the full filing fee in compliance with this Court's January 7,
6 2020 order.

7 It is further ordered that the Clerk of Court will close the case and enter judgment
8 accordingly. IT IS SO ORDERED.

9 DATED: March 2, 2020.

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11 UNITED STATES DISTRICT JUDGE
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